

REMARKS

In a final office action dated June 6, 2006, claims 44-99 were finally rejected under 35 U.S.C. §103 (a) as being unpatentable over U. S. Patent No. 5,297,202 to Kapp et al. ("Kapp") in view of U. S. Patent No. 6,065,679 to Levie et al. ("Levie"). A request for continued examination is concurrently filed to remove the finalizing of the June 6, 2006 office action.

A telephone interview was conducted between Examiner Fritz Alphonse and applicants' representative George Blasiak on August 17, 2006. A communication to record substance of telephone interview is filed concurrently herewith and is incorporated herein by reference.

During the course of the telephone interview the Examiner conceded that structural differences exist as between Kapp and the invention described in the specification and indicated as to claims 44, 64, 78, 89, and 95 that the Examiner would consider allowing the application if structural differences between the invention and Kapp were clarified.

During the telephone interview of August 17, 2006, the Examiner indicated that he considered Kapp to have a lip related feature by way of the combination of the upward extending feature 34 and the downward extending feature 60 of Kapp.

To further clarify certain claims over Kapp and to expedite an allowance, applicants amend claims 44, 64, 78, 89, and 95 to further clarify lip or head related features of the those claims as compared to Kapp. Dependent claims 100-111 are added to recite additional details of the invention.

Claims 44, 78, 89, and 95 are amended to recite that a recited lip extends at least one of sideward and forward of a recited base, while claim 64 is amended to recite that a recited enlarged head portion extends at least one of sideward and forwardly from a base.

Regarding claim 70, claim 70 is not amended, except for purposes of clarifying that applicants recite in claim 70 a detachable holder. During the course of the telephone interview the Examiner admitted that U. S. Patent No, 6,779,196 to Igbinaldolor does not show a detachable holder feature in the context of remaining claim elements and conceded that under a plausible interpretation the relied upon section of Igbinaldolor refers to a detachable stylus that is detachable from a holder and not a detachable holder as recited in claim 70.

The present application is under final rejection. To remove the "final rejection" status of the application, applicants concurrently file a Request for Continued Examination under *37 CFR 1.114*. A properly filed Request for Continued Examination accompanied by a submission reserves the finality of any office action *MPEP §706.07 (h)*. In that the present response qualifies as a submission, the finality of the June 6, 2006 office action should be removed.

No amendment presented herein contains new matter. The amendments presented herein were not presented earlier since applicants reasonably believed the claims without amendments are allowable over prior art of record.

Regarding the claims discussed herein, the applicants' selective treatment and emphasis of independent claims of the application should not be taken as an indication that the applicants believe that the Examiner's dependent claim rejections are otherwise sufficient. In fact, it is noted in the June 6, 2006 Office Action, that the dependent claims are rejected without substantial, and in certain instances, without any reference to the limitations of the dependent claims in combination with the base claim elements. In rejecting claims for want of novelty or for obviousness, the Examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if

not apparent, must be clearly explained and each rejected claim specified. 37 C.F.R. §1.104 (d)(2).

While the applicants have concentrated on the independent claims for purposes of demonstrating insufficiency of the Examiner's rejections, the lack of discussion respecting the dependent claims should not be taken as an indication that the applicants believe that the rejections of the dependent claims are otherwise correct. Applicants expressly reserve the right to present arguments supporting patentability of the dependent claims in a future response.

Further, while the applicants herein may have highlighted a particular claim element for purposes of demonstrating an insufficiency of an examination on the part of an Examiner, the applicants highlighting of a particular claim element for such limited purpose should not be taken to indicate that the applicants have taken the position that a particular claim element constitutes the sole basis for patentability out of the context of the various combinations of elements of the claim or claims in which it is present. Further, while applicants may have highlighted a particular claim element for the limited purpose of demonstrating an insufficiency in the examination, applicants expressly reserve the right to argue for patentability of any of the pending claims in this or a related application on grounds other than those specifically discussed here.

Accordingly, in view of the above amendments and remarks, applicants believe all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.


Application No. 10/044,119
Amendment dated September 6, 2006
After Final Office Action of June 6, 2006

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The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

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Respectfully submitted,

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